

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE
COMMISSION,
Plaintiff,

VS.

SOLARWINDS CORP. and TIMOTHY G.
BROWN.,

Defendants.

Civil Action No. 23-cv-9518-PAE

**UNOPPOSED MOTION OF BSA | THE SOFTWARE ALLIANCE FOR LEAVE TO FILE
BRIEF AS *AMICUS CURIAE* IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

BSA | The Software Alliance (“BSA”) respectfully moves for leave to file the accompanying brief as *amicus curiae* in support of Defendants’ Motion to Dismiss. *See* ECF 46. Courts have “broad” discretion to permit the filing of *amicus* briefs, *Auto. Club of N.Y., Inc. v. Port Auth. of N.Y. and N.J.*, No. 11-CV-6746 (RJH), 2011 WL 5865296, at *1 (S.D.N.Y. Nov. 22, 2011), and generally authorize the filing of *amicus* briefs that “are of aid to the court and offer insights not available from the parties,” *United States v. El-Gabrowni*, 844 F. Supp. 955, 957 n.1 (S.D.N.Y. 1994), and comply with Rule 29 of the Federal Rules of Appellate Procedure, *see, e.g., In re Terrorist Attacks on September 11, 2001*, No. 03-MDL-1570 (GBD), 2022 WL 17326181, at *1–2 (S.D.N.Y. Nov. 29, 2022).

The attached *amicus* brief readily satisfies that standard. As the leading advocate for the global software industry before governments and in the international marketplace, BSA has a strong interest in cybersecurity and in this case, which threatens to undermine global cybersecurity efforts. BSA Amicus Br. 2–5. It thus has “relevant expertise and a stated concern for the issues at stake.” *District of Columbia v. Potomac Elec. Power Co.*, 826 F. Supp. 2d 227, 237 (D.D.C. 2011). Its brief will provide “unique information” about the shortcomings of the complaint, which will

assist the Court in the disposition of Defendants' motion to dismiss. *Auto. Club*, 2011 WL 5865296, at *2. Moreover, the attached brief complies with Rule 29 of the Federal Rules of Appellate Procedure, and Plaintiff the Securities and Exchange Commission has stated that it does not oppose the motion.

Accordingly, BSA respectfully requests that this Court grant its unopposed motion for leave to file the attached *amicus* brief in support of Defendants' motion to dismiss.

Dated: February 2, 2024

Respectfully submitted,

/s/ James M. Garland
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